

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	§ § § § § § § § § §	
<i>Plaintiff,</i>		
v.		CIVIL ACTION NO. 1:07cv644
SALLY BEAUTY SUPPLY LLC, f/k/a SALLY BEAUTY COMPANY, INC.		
<i>Defendant.</i>		<u>JURY TRIAL DEMANDED</u>

ORIGINAL COMPLAINT

1. This is an action under Title VII of the Civil Rights Act of 1964, as amended by Title I of the Civil Rights Act of 1991, to correct unlawful employment discrimination on the basis of race, and to provide appropriate relief to Felica Spears, who was adversely affected by unlawful employment practices committed by Defendant Sally Beauty Supply LLC, f/k/a Sally Beauty Company, Inc. (“Defendant” or “Sally Beauty”). As alleged with greater particularity in paragraphs 10 -17, below, Defendant discriminated against Ms. Spears because of her race by revoking a job offer and denying her employment, pursuant to the policy of its management of enforcing race quotas in its stores.

JURISDICTION AND VENUE

2. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Sections 706(f)(1) and (3) and 707 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3) and -6 (“Title VII”) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

3. Venue is proper within the jurisdiction of the United States District Court for the Eastern District of Texas, Beaumont Division.

4. The employment practices alleged to be unlawful to which Ms. Spears was subjected were committed in West Orange, Texas, which is within the jurisdiction of the United States District Court for the Eastern District of Texas, Beaumont Division.

PARTIES

5. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII and is expressly authorized to bring this action by Section 706(f)(1) and (3) and 707 of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3) and -6.

6. At all relevant times, Defendant Sally Beauty Supply LLC, f/k/a Sally Beauty Company, Inc., has continuously been a Delaware corporation doing business in the state of Texas. With the possible exception of the months following Hurricane Rita, it continuously has done business in the city of West Orange and Orange County, Texas, and has continuously had at least fifteen (15) employees during relevant times. Sally Beauty Supply LLC may be served with process by serving its registered agent, C T Corporation System, 350 North Saint Paul St., Dallas, Texas 75201.

7. At all relevant times, Defendant Sally Beauty Supply LLC has continuously been an employer engaged in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of Title VII, 42 U.S.C. Section 2000e-(b), (g) and (h).

STATEMENT OF CLAIMS

8. More than thirty days prior to the institution of this lawsuit, Felica Spears filed a charge with the Commission alleging violations of Title VII by Defendant, and all conditions precedent to the institution of this lawsuit have been fulfilled, including the timely filing of a charge and an attempt to conciliate the matter.

9. Since at least September 2005, Sally Beauty engaged in unlawful employment policies and practices at its store in West Orange, Texas, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1).

10. On or about September 5, 2005, Ms. Spears applied for a job. She had applied previously in 2005 for a job as a part-time cashier, but was not hired.

11. At the instruction of District Manager Jessica Nelson, Defendant's staff had displayed a "Help Wanted" sign at the store. Defendant did not have a store manager at the time Ms. Spears applied for a job.

12. Defendant's employee Nicole Fusilier took Ms. Spears' application. Fusilier telephoned District Manager Nelson while Ms. Spears was still in the store. Fusilier told Ms. Spears to start work on September 7, 2005.

13. Before Ms. Spears' start date, District Manager Nelson telephoned the store and spoke to Acting Store Manager Bridgett Nugier and Shalonda Daniel. During this conversation, in which Nugier and Daniel participated using separate telephone receivers, Nelson instructed Nugier to explain to Spears that "we changed our mind because it has to be even."

14. On September 7, 2005, Ms. Spears arrived to start work. She was told by Acting Store Manager Nugier that "We can't hire you because we already have 2 blacks working here, I'm the only Caucasian, and it has to be even."

15. Ms. Spears' information had previously been typed into the Sally Beauty computer system, as if she had been a new hire.

16. Sally Beauty has stated that it hired a Caucasian, Jennie Cooper, effective September 10, 2005.

17. Ms. Spears was not hired because of her race, black.

18. The effect of the practices complained of above has been to deprive Ms. Spears and applicants seeking work in West Orange and the surrounding district of equal employment opportunities and otherwise adversely affect their status as applicants for employment because of their race.

19. The unlawful employment practices of which the Commission complains in the preceding paragraphs was intentional.

20. The unlawful employment practices complained of in the preceding paragraphs were done with malice or with reckless indifference to the federally protected rights of Ms. Spears and other applicants for jobs at Sally Beauty stores.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of race.

B. Order Sally Beauty to institute and carry out policies, practices, and programs which provide equal employment opportunities for applicants and employees regardless of their race, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Sally Beauty to make whole Ms. Spears by providing appropriate backpay and by providing compensation for any other pecuniary losses, past and future, including out-of-pocket expenses such as job search expenses in amounts to be proved at trial, rightful place hiring or Ms. Spears or alternatively frontpay.

D. Order Sally Beauty to provide Ms. Spears compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of above, including emotional

pain, suffering, inconvenience, mental anguish, and loss of enjoyment of life, in amounts to be determined at trial.

E. Order other affirmative relief necessary to eradicate the effects of Sally Beauty's unlawful employment practices.

F. Order Sally Beauty to pay punitive damages, in amounts to be determined at trial, for its malicious and reckless conduct described in paragraphs 10-17, above.

G. Award pre-judgment interest and post-judgment interest on all amounts recovered.

H. Grant such relief as the Court deems necessary and proper in the public interest.

I. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully submitted,

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

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